



18m

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Confirmation No. 6569
Ching-Hsiang HSU et al.) Group Art Unit: 1651
Serial No. 10/808,503) Examiner: D. Ware
Filed: March 25, 2004)
For: Novel Microorganism Strain)
GM-080 of *Lactobacillus paracasei*)
And Its Use for Treating Allergy)
Related Diseases) Atty. Docket No. 001409.00012

*file
purpose
only*

AMENDMENT

This amendment responds to the non-final office action mailed December 14, 2004.

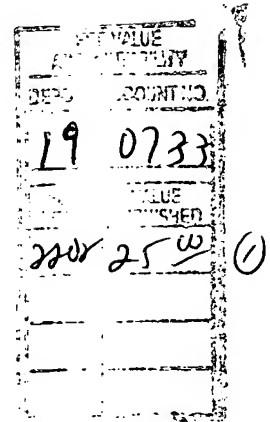
A declaration of GenMont Biotech, Inc. accompanies this amendment.

A corrected filing receipt was mailed July 21, 2004 responding to our request of July 2, 2004. A corrected filing receipt was also mailed September 9, 2004 in response to our request of August 10, 2004.

It is believed there is no fee due in connection with this filing. However, if a fee is due, the Office is authorized to charge such a fee to Deposit Account No. 19-0733.

Amendments to the Specification begin on page 2 of this paper.

Amendments to the Claims begin on page 3 of this paper.



REMARKS

About the Amendment

Claims 3-7 have been amended to render them dependent from claim 14 and to recite a single disclosed member of the Markush group of claim 14.

"Biologically pure" has replaced "isolated" to clarify the intended meaning. This amendment does not narrow the claims.

Syntax of claims 10, 11, and 14 has been corrected.

Claims 8, 12, and 18 have been amended to recite just one of two alternatives.

Claim 15 has been amended to use proper Markush language.

New claims 19 and 20 recite *in vitro* cultures of the *Lactobacillus* of the invention. These are supported at page 24, lines 5-10, and page 32, lines 10-15.

New claims 21 recites one of the two alternatives of original claim 18.

Rejection of Claims 1-18 Under 35 U.S.C. § 112, first paragraph

The claims are rejected because it is not disclosed in the specification if the microorganism recited in claim 1 is readily available to the public. Applicants submit herewith a declaration regarding the deposit which was made under the provision of the Budapest Treaty. According to the declaration, public access will be granted upon issuance of the subject application as a patent.

The specification is amended in this paper to provide the depository's address. The specification already contains:

- a deposit date (page 6, lines 11-12)
- depository name (page 6, lines 10-11)
- strain description (page 6, lines 23- to page 20)
- accession number (page 6, line 11)

Withdrawal of this rejection is respectfully requested.

Rejection of Claims 1-18 Under 35 U.S.C. § 112, first paragraph

The recitation in claim 1 of "isolated" is allegedly unclear. This term has been changed to "biologically pure" as suggested by the examiner.

Allowance of all pending claims is respectfully requested.

Respectfully Submitted,

Dated: March 14, 2005

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